

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated November 14, 2007. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-13 are pending in the Application. Claims 1, 5 and 10 are independent claims.

In the Office Action, claim 10 is objected to due to a minor informality which is corrected by this amendment. Accordingly, it is respectfully submitted that claim 10 is in proper form and an indication to that effect is respectfully requested.

Claims 1-13 are rejected under 35 U.S.C. §103(a) as allegedly obvious over Admitted Prior Art (APA) in view of U.S. Patent No. 6,473,749 to Smith ("Smith"). It is respectfully submitted that claims 1-13 are allowable over APA in view of Smith for at least the following reasons.

The APA is directed to a pay per view system wherein playback of a DVD is authorized by an authorizing agent that is identified by data stored on the DVD. In operation, "[w]hen the user activates the playback operating mode of the DVD unit, the DVD unit reads out the communication address of the authorizing device from

the DVD disk and outputs this to the set top box. Thereupon, if possible, the set top box obtains a playback authorization for the chargeable film from the authorizing device. If the user of the DVD unit has a valid account with the authorizing device, or has inserted a membership card with a prepaid credit into the set top box, the playback authorization for the chargeable film is then obtained, a key information item for decoding the coded playback information item being transferred to the set top box. The playback information item decoded by the set top box is output to a television set connected to the set top box for the purpose of playing back the film." (See, page 1, lines 16-25.) In other words, in APA, the user is charged by the authorizing agent for authorization to playback the DVD. The APA further allows for a quantity discount to be applied to the user when the user plays back a number of DVDs within a billing period (see, page 1, line 27 through page 2, line 2).

It is respectfully submitted that the APA does not disclose or suggest (emphasis added) "the recorder identification information item identifying the recording device that performs the recording" as recited in claim 1 and as substantially recited in each of claims 5 and 10. The APA may transfer data identifying the

authorizing agent but this is for the purposes of receiving authorization to play back the DVD and billing the user for the playback authorization and has nothing to do with providing a bonus to the party that recorded the DVD.

The APA also does not disclose or suggest "transferring the at least one recorder identification information item, played back from the recording carrier or from the copy of the recording carrier, from the one or more playback devices to the authorizing device identified by the link information item" as recited in claim 1 and as substantially recited in each of claims 5 and 10. In the APA, it is immaterial what device performed the recording contained on the record carrier. In APA, the system is merely directed to keeping track of and billing parties that play the DVDs. The APA provides no system of providing a bonus to parties that may record and disseminate the DVDs. In a typical DVD authoring system, the party that records the DVDs is paid for the recording regardless of whether or not the DVDs are ever played.

As recognized by the present system (emphasis added), "it has proved to be disadvantageous in the case of the known pay per view system that there is no incentive for a user of the system to canvass an acquaintance or friend as a new user for the pay per

view system, in order thus to increase the number of playbacks of chargeable films."

The Office Action recognizes that the "APA does not specifically disclose: determining the bonus information item for the user of the recording device from the number of recorder identification information items transferred during a billing period to the authorizing device by the one or more second users of the one or more playback devices and identifying the recording device" and cites Smith to provide these elements. However, it is respectfully submitted that reliance on Smith is misplaced.

Smith is directed to a system for managing file content based on providing payment to a user that uploads content to the file system. As stated in Smith, "a user may be an employee of an enterprise that gets credit for the number of data structures provided, may receive a bonus based on the number of data structures provided ... [or] the user may be an author of news stories or other suitable file content ..." (See, Smith, Col. 11, lines 7-14.) While Smith does provide for credit provided to the user that uploaded the file content (see, FIG. 5, step 528), it is respectfully submitted that Smith does not provide for "determining the bonus information item for the first user of the recording

device from the number of recorder identification information items transferred during a billing period to the authorizing device by the one or more second users of the one or more playback devices and identifying the recording device" nor would this even make sense in terms of Smith.

Smith is directed to a system of matching content up loaders with content down loaders. In Smith, "the user's account is charged [by the file system] for the data structures that have been ordered, and the data structures are transmitted to the user. The method then proceeds to 542 where the contributor's account is credited for the sale." (See, FIG. 5 and the accompanying text provided in Col. 11, lines 49-52.) It is respectfully submitted that the billing system in Smith has nothing to do with providing bonuses based on playback of content. Accordingly, in Smith bonus information is not determined by recorder information transferred to the authorizing device by the users of the playback device.

It is respectfully submitted that the method of Claim 1 is not anticipated or made obvious by the teachings of APA in view of Smith. For example, APA in view of Smith does not disclose or suggest, a method that amongst other patentable elements, comprises (illustrative emphasis provided) "recording a coded playback

information item, and recording a link information item which identifies an authorizing device authorized to grant a playback authorization for the coded playback information item, and

recording at least one recorder identification information item on a recording carrier with the aid of the recording device, the recorder identification information item identifying the recording device that performs the recording; ... transferring the at least one recorder identification information item, played back from the recording carrier or from the copy of the recording carrier, from the one or more playback devices to the authorizing device identified by the link information item; and determining the bonus information item for the first user of the recording device from the number of recorder identification information items transferred during a billing period to the authorizing device by the one or more second users of the one or more playback devices and identifying the recording device" as recited in claim 1, and as substantially recited in each of claims 5 and 10.

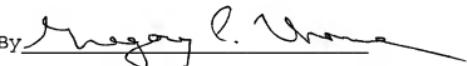
Based on the foregoing, the Applicant respectfully submits that independent claims 1, 5 and 10 are patentable over APA in view of Smith and notice to this effect is earnestly solicited. Claims 2-4, 6-9 and 11-13 respectively depend from one of claims 1, 5, and

10 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicant has made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By, 

Gregory L. Thorne, Reg. 39,398
Attorney for Applicant(s)
February 13, 2008

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101